

Before the
Federal Communications Commission
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the Local Competition)
Provisions in the Telecommunications Act)
of 1996)

CC Docket No. 96-98

**REPLY TO COMMENTS OPPOSING
PETITION FOR RECONSIDERATION OF
RCN TELECOM SERVICES, INC.**

RCN Telecom Services, Inc., ("RCN"), by its undersigned counsel, pursuant to 47 C.F.R. § 1.429, hereby files its Reply to comments opposing RCN's Petition for Reconsideration of the Commission's November 5, 1999 *Third Report and Order* in this docket.¹ RCN has requested reconsideration of the Commission's decision not to include operator services and directory assistance ("OS/DA") in the national list of unbundled network elements ("UNEs") that incumbent local exchange carriers ("ILECs") must offer to competitors under the standards of the Telecommunications Act ("Act").²

As explained in RCN's Petition for Reconsideration, operator services should be included in the national list of required elements because where operators are the alternative routing for emergency 911 calls, the unavailability of local ILEC operators to expeditiously and efficiently route emergency calls to PSAPs ("Public Safety Answering Points") will significantly impair competitors' ability to offer local exchange service. Further, both operator services and directory assistance

¹ *Third Report and Order and Fourth Further Notice of Proposed Rulemaking*, In the Matter of Implementation of the Provisions of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98 (rel. Nov. 5, 1999) ("Order").

² *Id.*, ¶¶ 438-64.

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should be available as unbundled elements because they promote price competition for local exchange service without which competitors' ability to provide that service would be impaired.³

RCN's Petition is supported by the Competitive Telecommunications Association ("CompTel"), and opposed by GTE and SBC.⁴ As discussed below, the two opposing parties fail to address the specific issues raised in RCN's Petition.

I. GTE AND SBC DO NOT ADDRESS THE FACT THAT WITHOUT UNBUNDLED OS/DA MANY CLECS WILL BE FORCED TO PURCHASE ILEC OS/DA SERVICES AT NON-COMPETITIVE RATES

SBC and GTE assert that the Commission has already considered and rejected RCN's argument that the ability of operators to connect callers to local emergency services is not only essential to public safety but of significant importance to providing competitive local exchange services.⁵ Without addressing the Commission's reasoning or RCN's arguments, SBC and GTE merely restate the Commission's conclusions. The Commission, however, while acknowledging that public safety is of "paramount concern," did not adequately address the situation in communities that depend on local operator services for effective emergency call routing.⁶

³ See *Petition for Reconsideration of RCN Telecom Services, Inc.* (RCN Petition) (filed Feb. 17, 2000). In the event the Commission declines to reconsider its Order unbundling OS/DA, RCN joins those commenters supporting the petitions of AT&T and MCI WorldCom requesting that the Commission clarify the requirements that must be met by ILECs with respect to provisioning customized routing. See *AT&T Petition* at 19-20; *MCI Reconsideration Petition* at 18-19; *MCI Clarification Petition* at 16-20; see also *Comments of the Competitive Telecommunications Association on Petitions for Reconsideration* at 12-13 (CompTel Comments); *Comments of Sprint* at 4-5; *Comments of MediaOne Group, Inc. in Response to Petitions for Reconsideration* at 7-8.

⁴ See CompTel Comments at 13; *Comments and Opposition of GTE* at 15-16 (GTE Comments); *SBC's Consolidated Opposition to Petitions for Reconsideration and Clarification* at 34-35 (SBC Comments).

⁵ See GTE Comments at 15-16; SBC Comments at 34-35.

⁶ See Order, ¶¶ 459, 460.

As RCN has pointed out, many localities require that local operator services be in place to handle 911 calls in the event that the system of PSAPs is down or overloaded.⁷ Without access to the PSAP, callers, particularly those who are not able to articulate their location such as children or those unable to speak adequate English, are dependent upon the operator's familiarity with local emergency service numbers. The facts considered by the Commission were simply that one third-party OS/DA provider requires customers to provide local emergency numbers and that the record was unclear as to whether a substantial number of ILEC OS/DA call centers have the ability to connect to local PSAPs.⁸ On this basis, the Commission concluded that self-provisioned local operator services was the only way to assure the quality of local operator emergency response.⁹ This hardly represents a sufficient basis from which the Commission could adequately consider this important issue and does not begin to address the situation illustrated by RCN.

GTE's point that ILEC operator services are always available to assure public safety merely supports RCN's contention.¹⁰ Where only the ILEC's OS/DA services can assure an adequate emergency response when the PSAP is down or unavailable, the ILEC enjoys a significant competitive advantage. As RCN observed, new entrants need unbundled ILEC OS/DA services to be able to competitively enter the market in those areas where local operator services are the required routing alternative for 911 emergency calls.¹¹ Relying on national-based operator services who may

⁷ RCN Petition at 3-4.

⁸ See Order, ¶ 460.

⁹ *Id.*

¹⁰ See *GTE Petition* at 15.

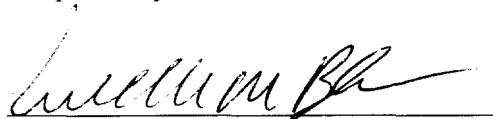
¹¹ See *RCN Petition* at 3-5.

simply refer such callers back to local 911 is not an option in these situations. As RCN pointed out, in communities that require local operator services to handle emergency response, forcing new entrants to purchase ILEC OS/DA services at non-TELRIC (Total Element Long Run Incremental Cost-based) rates forecloses their ability to compete with the ILEC and does not further the Commission's stated goal of fostering differentiation of service through price competition.¹² For the foregoing reasons, the lack of OS/DA as an unbundled network element will impair CLECs' ability to provide competitive services and the Commission should redesignate OS/DA as a UNE.

II. CONCLUSION

RCN's contentions have not been adequately addressed by the Commission or by those commenters who addressed RCN's Petition for Reconsideration. These commenters have thus failed to introduce reasons for denying RCN's Petition. RCN therefore respectfully requests that the Commission reconsider its *Third Report and Order* and classify OS/DA as a network element that ILECs must unbundle and offer to CLECs under the pricing standards in the Telecommunications Act and the Commission's Rules.

Respectfully submitted,



Russell M. Blau
Jeffrey A. Mitchell
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
(202) 424-7500
(202) 424-7645 (fax)

Joseph O. Kahl
RCN Telecom Services, Inc.
105 Carnegie Center
Princeton, NJ 08540
(609) 734-3827
(609) 734-6167 (fax)

Dated: April 3, 2000

Counsel for RCN Telecom Services, Inc.

¹² *Id.*; see Order, ¶ 464.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply to Comments Opposing Petition for Reconsideration of RCN Telecom Services, Inc. in CC Docket No. 96-98 was sent by United States First-Class Mail, postage prepaid, or hand delivered, on this 3rd day of April, 2000 to the parties on the attached list.


Gillian B. Kirkpatrick

VIA HAND DELIVERY

Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, SW - TW-B204
Washington, DC 20554

VIA HAND DELIVERY

Dorothy Atwood
Office of the Chairman
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

VIA HAND DELIVERY

International Transcription Service
445 12th Street, SW - CY-B400
Washington, DC 20554

VIA HAND DELIVERY

Lawrence E. Strickling
Chief, Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

VIA HAND DELIVERY

Kyle Dixon
Office of Commissioner Powell
Federal Communications Commission
The Portals
445 12th Street, SW

Washington, DC 20554

VIA HAND DELIVERY

Sarah Whitesell
Office of Commissioner Tristani
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

VIA HAND DELIVERY

Janice Myles
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

VIA HAND DELIVERY

Jordan Goldstein
Office of Commissioner Ness
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

VIA HAND DELIVERY

Michelle Carey
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

VIA HAND DELIVERY

Margaret Egler
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

Mark C. Rosenblum
Roy E. Hoffinger
Richard H. Rubin
AT&T Corp
295 North Maple Avenue - Room 1127M1
Basking Ridge, New Jersey 07920

VIA HAND DELIVERY

Chairman William E. Kennard
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

M. Robert Sutherland
Jonathan B. Banks
BellSouth Corporation
1155 Peachtree Street, NE - Suite 1800
Atlanta, Georgia 30309-3610
Counsel for BellSouth Corp. & Bell South
Telecommunications, Inc.

VIA HAND DELIVERY

Rebecca Beynon
Office of Commissioner Furchgott-Roth
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

Mark D. Schneider
Jenner & Block
601 13th Street, NW
Washington, DC 20005
Counsel for MCI WorldCom

VIA HAND DELIVERY

Robert Atkinson
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

Anthony C. Epstein
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Counsel for MCI WorldCom

Edward Shakin
Michael E. Glover
Bell Atlantic
1320 North Courthouse Road - 8th Floor
Arlington, Virginia 22201

Constance L. Kirkendall
Regulatory Manager
@link Networks, Inc.
2200 Campbell Creek Boulevard - #100
Richardson, Texas 75082

James G. Pachulski
TechNet Law Group, P.C.
1100 New York Avenue, NW - Suite 365
Washington, DC 20005
Counsel for Bell Atlantic

Chuck Goldfarb
Richard S. Whitt
Cristin Flynn
MCI WorldCom, Inc.
1801 Pennsylvania Avenue, NW
Washington, DC 20006

Jonathan E. Canis
Ross A. Buntrock
Kelley Drye & Warren, LLP
1200 19th Street, NW - 5th Floor
Washington, DC 20036
Counsel for Intermedia Communications

Jason Oxman
Covad Communications Company
600 14th Street, NW - #750
Washington, DC 20005

Albert H. Kramer
Jacob S. Farber
Dickstein Shaprio Morin & Oshinsky LLP
2101 L Street, NW
Washington, DC 20037-1526
Counsel for Birch Telecom

James M. Tennant
President
Low Tech Designs, Inc.
1204 Saville Street
Georgetown, South Carolina 29440

Christy Kunin
Elise P.W. Kiely
Blumenfeld & Cohen
Technology Law Group
16525 Massachusetts Avenue, NW - #700
Washington, DC 20036
Counsel for Rhythms Netconnections, Inc.

Robert J. Aamoth
Steven A. Augustino
Todd D. Daubert
Kelley Drye & Warren LLP
1200 19th Street, NW - #500
Washington, DC 20036
Counsel for CompTel

Kent F. Heyman, Sr, Vice President &
General Counsel
Francis D.R. Coleman
Mpower Communications
161 Sully's Trail #202

Pittsford, New York 14534

Carol Ann Bischoff
Executive V.P. and General Counsel
Competitive Telecommunications
Association
1900 M Street, NW #800
Washington, DC 20036

Wendy Bluemling
Director, Regulatory Affairs
DSL.net, Inc.
545 Long Wharf Drive - 5th Floor
New Haven, Connecticut 06511

David R. Conn
Associate General Counsel & Vice President
Product & Policy
McLeod USA Telecommunications
Services, Inc.
6500 C Street, SW
Cedar Rapids, Iowa 52406-3177

Patrick J. Donovan
Morton J. Posner
Swidler Berlin Shereff Friedman LLP
3000 K Street, NW - #300
Washington, DC 20007
Counsel for RCN Telecom Services, Inc.

Andrew Lipman
Donna M. Coles Roberts
Paul Hudson
Swidler Berlin Shereff Friedman LLP
3000 K Street, NW - #300
Washington, DC 20007
Counsel for MGC Communications

Eric J. Branfman
James N. Moskowitz
Swidler Berlin Shereff Friedman LLP
3000 K Street, NW - #300
Washington, DC 20007
Counsel for Mpower Communications, Inc.